

116. In a recent Oklahoma Strong fundraising email, you said: "...As Chairman of the Rule of Law Defense Fund, the policy arm for Republican Attorneys General, I asked my fellow AGs to sign onto a letter urging Senate Majority Leader McConnell and Judiciary Chairman Grassley to stand strong and continue to hold fast against this [Merrick Garland] nomination." What email address did you use to get the other attorneys general to sign onto this letter? What if any groups solicited signatures from other attorneys general? Did you ask Democrats to sign the letter or just Republicans?

I do not recall using any email address to solicit signatures. I have no knowledge of what other groups may have solicited signatures from attorneys general. I do not recall asking any Democrats to support the letter.

117. If confirmed, do you commit to notifying the Committee of all of the email addresses you plan to use upon confirmation and within seven days of using a new email address, including any aliases or pseudonyms? Do you commit to conducting all business using official email addresses and other means and to refrain from any mediums that are outside the Freedom of Information Act's reach?

If confirmed, I commit to notifying the Committee of the e-mail address I use for official business. I will use my official e-mail address for official EPA related business.

118. The office of the Oklahoma AG's budget and FTEs have grown significantly while you've been in office and you indicated you have seven FTEs, accounting for \$679,000 in salaries, focused on "environmentally-related responsibilities." What is the breakdown of budget and FTEs dedicated to challenging EPA vs. criminal and civil environmental cases?

The Office's budget and expenditures can fluctuate greatly year over year depending on the timing of case settlements and related distributions. For example in fiscal year 2014, the Attorney General's Office distributed higher than normal case settlement funds that inflated the budget over typical levels. Conversely, that total came down in fiscal years 2015 and 2016. Thus, fluctuations such as the one assumed by your question do not accurately reflect the size of the Office's budget. In my tenure as Attorney General, the Oklahoma Office of the Attorney General streamlined legal services for dozens of agencies, returned \$29 million to the General Revenue Fund, distributed mortgage settlement restitution funds to impacted citizens, strengthened tobacco enforcement, and led the Office in such a fiscally responsible manner that the Office was able to forego all \$6.4

million in state-appropriated operating funds for fiscal year 2017--that in addition to the Office having its annual appropriation cut in every prior year. The Office of Attorney General was the only state agency to voluntarily do this. During my tenure, the Office assumed the statutory duties of the Human Rights Commission through our Office of Civil Rights Enforcement, strengthened tobacco settlement enforcement efforts, and launched the Solicitor General's Unit. The Office also increased by one third the number of agencies, commissions, or boards which it represents. This has led to a precipitous decline in state agency usage of costly private counsel. It is these and other efforts that have permitted the Office to contribute approximately \$29 million to the General Revenue Fund over the last six years. With regard to FTEs related "to challenging EPA vs. criminal and civil environmental cases," the Office currently has four FTEs whose responsibilities would include (among many other things) challenges to EPA rulemakings or other actions.

119.As submitted for the record, here are some statistics from Drew Edmonson's Environmental Unit (1997 to 2010): Criminal matters

142 criminal investigations; 56 federal or state prosecutions; 110 felony counts convictions of individuals; 21 misdemeanor count convictions of individuals; 10 felony counts convictions of corporations; 3 misdemeanor count convictions of corporations; 28 years of jail time; \$8M in fines. Is it still your position that the Environmental Protection Unit was only handling one case when you took office?

I am not familiar with the cases being handled prior to my taking office. As I have stated, when I took Office, the primary focus of the "environmental protection unit" was a single lawsuit relating to poultry farms.

120.We reviewed the Oklahoma Attorney General's website between when you took office and the present and found no press releases on criminal or civil environmental enforcement matters. For this review, we did not include lawsuits by Oklahoma against EPA. Why were there no environmental enforcement matters listed on your website as of January 17, 2017?

I have not reviewed the website, so I am not familiar with what matters are or are not listed.

121.What specific reductions in air, water, or solid waste pollution have resulted from your environmental enforcement actions as Attorney General?

Environmental regulation in Oklahoma is the responsibility of Oklahoma's environmental regulators at agencies like the Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board. The

Office of Attorney General sometimes provides legal services to those agencies with regard to environmental issues, and in that capacity the Office has, for example, negotiated a consent decree requiring a large concentrated animal feeding operation to clean up its operations to prevent water pollution, and negotiated an agreement whereby Arkansas agreed to a stringent phosphorous standard in the Illinois River.

122. How many criminal investigations, federal prosecutions, state prosecutions, felony count convictions of individuals, misdemeanor count convictions of individuals, felony count convictions of corporations, misdemeanor count convictions of corporations, years of jail time, and cumulative fines resulted from environmental cases you initiated? Please list and describe any civil suits and actions you initiated.

To list and describe every civil suit and action initiated by the Office of Attorney General would be all but impossible. Each attorney is responsible for maintaining their own case files, and the Office employs many attorneys across many different units who litigate civil matters of all kinds. In order for you to receive a comprehensive response to a voluminous request of that nature requesting information on all matters, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act, and to the extent it is even possible to compile such a list, the Office would make efforts to do so.

123. The Center for Media and Democracy ORA request is dated on or about January 5, 2015. During the hearing, you said, "I actually have a general counsel and an administrator in my office that are dedicated to performing or providing responses to open records requests." In response to questions about the January 5, 2015 request, your general counsel apologized for the delayed response and explained she was busy with other duties. What percentage of time do each of the two staff you mentioned dedicate to responding to Open Records Act requests? Have you communicated with your office's general counsel or any other attorney handling ORA requests to discuss the timing of your office's response to any specific request? If so, please identify which requests you discussed, the dates of those discussions, and the substance of your discussions.

The Office of Attorney General employs a paralegal who intakes requests, opens files, and searches for documents responsive to each Open Records Act request. Once the search is complete, the office's general counsel must review each document to ensure it does not contain information required to be kept confidential under state and federal laws. Along with overseeing the Open Records Act process, the office's general counsel is responsible for overseeing many other programs and statutory duties with which the Office is tasked. I am unaware of what percentage of time is spent solely on Open Records Act requests. I do not recall any conversations with individuals in my office regarding the timing of Open Records Act responses.

124. In a letter regarding this request, your general counsel stated your office processes “these requests in the order in which they are received.” How long has that been the policy of your office? Have you fulfilled any ORA requests submitted since at least January 5, 2015?

To my knowledge, that is how the office has historically processed such requests. I am not aware of which requests submitted since January 5, 2015 have or have not been responded to.

125. According to a recent E&E article, your office has 52 outstanding open records requests. Please provide a list of all pending FOIA, Open Records Act or other similar information requests under Oklahoma state law, by whom, and when each was a filed.

I am not familiar with the pending requests. Such a requests should be directed to the Office of Attorney General's general counsel, who can provide such a list.

126. The public and this Committee, in fulfilling our constitutional advice and consent duties, have a right to see information pursuant to the Open Records Act. Please produce all of the following material that has been requested under the Open Records Act prior to November 8, 2016: related to RAGA, RLDF, Liberty 2.0, Oklahoma Strong, and any other 527s, 501(c)(3), and 501(c)(4)s, including the State Policy Network and ALEC; correspondence with the fossil fuel and agriculture industries and any other industries regulated by EPA; any other material related to energy, environment, agriculture, and EPA.

If Open Records Act requests for such information have been made, as your question suggests, those requests will be answered in the normal course.

127. Please provide a list of all Open Records Act requests your office has received during your tenure, from whom and when, the number of days it took to produce the requested documents or decline the request, the outcome of those requests including whether any decisions have been or currently are being challenged in court, and share the following material that has been disclosed as a result of those requests with the Committee: related to RAGA, RLDF, Liberty 2.0, Oklahoma Strong, and any other 527s, 501(c)(3), and 501(c)(4)s, including State Policy Network and ALEC; correspondence with the fossil fuel and agriculture industries and any other industries regulated by EPA; any other material related to energy, environment, agriculture, and EPA.

In order for you to receive a comprehensive response to a voluminous request of that nature, I would direct you to make a request of the Oklahoma Attorney General's Office under the Oklahoma Open Records Act.

128. What was the average length of time it took your office to fulfill open record act requests to your office between January 2011 and December 6, 2014? What was the average length of time it took your office to fulfill open record act requests to your office from December 7, 2014 to the present? What, if any, steps has your office taken to improve the timeliness of your open records act responses?

I am not aware of what the average length of time my office took to fulfill open record act requests is. I have directed my staff to respond to all open records act requests in a timely and efficient manner.

129. Under what circumstances would it be appropriate for EPA to fail to respond to a FOIA request for 700 days?

I am not in a position to render an opinion a hypothetical given that different open record requests raise issues specific to the particular requests at issue. However, I appreciate the importance of openness and transparency, and if confirmed I will work to ensure EPA complies with all legal requirements concerning the implementation of the Freedom of Information Act and other statutes EPA is responsible for administering.

130. Why did you fail to disclose records on your office's expenditures on outside attorneys, as is required under Oklahoma state law, until contacted by a reporter? Why did you not hold your own office's spending practices to the same standard expected of other Oklahoma state offices?

The Office of Attorney General complies with its legal obligations relating to outside counsel, and discloses any outside counsel contracts when asked.

131. Is it correct that your office has spent over \$1 million in outside lawyer expenses during your tenure? Please explain the unreported increase in expenses.

The bulk of the outside counsel expenses incurred by the Office during my tenure relate to a single dispute over water rights in southeastern Oklahoma. The Legislature specially appropriated funds to my office for the specific purpose of retaining outside counsel with expertise relevant to that tribal water law issue.

132. Oklahoma state law requires that state agencies select attorneys from a pre-approved list. Several of the outside attorneys that your office has hired are not included on the list of approved attorneys. Why didn't you comply with this requirement?

Because the Office of Attorney General maintains the referenced list, and is authorized to allow representation from attorneys not on the list, the Office of Attorney General plainly has the discretion to allow representation from attorneys not on the list.

133. You have not released records on your contracts with outside attorneys, as required under Oklahoma state law. Please provide all contracts, including any related to pro-bono work. Have any private interests been funding outside attorneys representing your office in lawsuits against the federal government? If so, who, why, and in what amounts? For any pro-bono work, is that an in-kind donation that should be recorded and accounted for in your office's accounting? Has your office done so? Please provide a list of these in-kind donations, from whom, when the work was done, and the value.

A requests for such contracts can made to the Office of Attorney General pursuant to Oklahoma's Open Records Act. When my office retains outside counsel to assist on a matter, it either compensates those attorneys itself, or the outside counsel provides the services pro bono. I am not aware of any outside funding of pro bono counsel, and would not retain any pro bono counsel if they were being so funded. I am not aware of any requirement that pro bono legal services be considered an in kind donation to the Office of Attorney General.

134. You received campaign contributions from at least one of the attorneys that provided outside representation for Oklahoma—David Rivkin, of D.C. law firm BakerHostetler. Is there a prohibition on receiving campaign contributions from those in a contractual relationship with your office? Was your contribution from Mr. Rivkin in compliance with such requirements?

I am not aware of any such requirements. In any event, Mr. Rivkin received no compensation from the Office for the legal services he provided.

135. Are you aware of any payments made to Mr. Rivkin from other parties in return for his representation of your state?

I am unaware of any payments made to Mr. Rivkin from any other parties in return for his representation.

136. Did you contact Mr. Rivkin about representing the State of Oklahoma, did he contact you, or did a third-party make the connection? Please explain.

I cannot recall the exact circumstances leading to Mr. Rivkin's representation, or who initiated the contact. Mr. Rivkin has represented over half of our Nation's states on various matters, and is a well-recognized expert on constitutional questions, particularly those relating to States and their federalism interests.

137. According to your questionnaire, you've given dozens of environment-related speeches in Oklahoma and around the country, many to industry groups. Have you ever given one to a public health group, environmental NGO, or scientific society? You've received various awards, several from industry groups. Have you ever received an award from a public health or environmental group for protecting public health? How about environmental quality? Have you ever received an award from a scientific society?

I have given dozens of speeches on a wide variety of topics to many different groups and industries. I do not recall a specific public health group, NGO or scientific society I have spoken to. I do not recall receiving awards from a public health or environmental group or a scientific society.

138. Please provide any correspondence or details about other communication between you or anyone working on your behalf concerning the establishment or activities of America Rising, America Rising Squared, and Protecting America Now, and any other organizations that are funding efforts to get you confirmed as EPA Administrator.

I am not aware of any such correspondence.

139. You wrote an op-ed attacking efforts to investigate whether Exxon deliberately misled investors and the public despite internal research confirming that climate change is real. Please describe any conversations you've had with political donors to you or your affiliated political action committees, RAGA, Rule of Law Defense Fund, or co-plaintiffs or amici in your cases against EPA about ExxonMobil's potential liability under federal or state law regarding climate change (e.g., federal RICO, New York state's Martin Act, etc.), including the date and substance of those conversations.

I do not recall any such conversations.

140. During your time as the Attorney General of Oklahoma, have you or anyone in your immediate family owned any stocks of companies that were co-plaintiffs or amici in any of your 14 cases against the EPA, including ExxonMobil, Devon Energy, Murray Energy, Southern Company, and Continental Resources. If yes, please list the stock, dates held, and amount.

To my knowledge, no, and a list of my investments has been provided as part of my financial disclosures.

141. In implementing the Lautenberg Act, EPA, consistent with congressional intent, issued a notice making it clear that substantiation of all non-exempt confidential business information (CBI) claims is required upfront. Do you commit to ensuring the EPA follows and upholds that requirement?

As I have previously stated I believe the Lautenberg Act struck an appropriate balance between protecting confidential business information and informing the public and I intend to apply the law as drafted by congress.

142. In a speech at Hillsdale College on June 30, 2016, you referred to a three-hour private, basement meeting with Supreme Court Justices Scalia and Thomas, Leonard Leo of the Federalist Society, and other unidentified people. Referring to Justice Scalia, you said: Leonard [Leo] blessed me on a number of occasions to spend some quality time, personal time, with the previous justice. In fact, I remember one year about three years ago, I was here for a Federalist Society event, their annual meeting that occurs in November. Leonard said 'Scott, stay over, I'd like for you to go dinner on Friday night'... we went to a basement in Washington DC, there were about ten of us in attendance. Two of those folks in attendance were Justice Scalia and Justice Thomas. And we spent three hours talking about the constitution and things that were involved in as attorneys general. It was a fabulous time.

What was the date of this basement meeting? Please provide a complete list of the participants. Please list all cases pending before the Supreme Court at the time of this meeting in which the State of Oklahoma was a party and/or on which you or an attorney in your office was counsel of record. During the basement meeting, was there any discussion or mention of EPA, the environment, public health, environmental or public health regulations, environmental laws including but limited to the Clean Air Act, the Clean Water Act, NEPA, mercury, cross-state air pollution, Renewable Fuels Standards, ozone standards, endangerment from GHGs, regional haze, or climate change. If so, please identify the specific topics that were discussed or mentioned. Have you ever had any other private meetings with any other state or federal judges or justices while you had cases pending before their courts? Which cases? Please describe any such meeting, including the dates, locations, attendees, and topics discussed.

I do not recall the date of the dinner to which you refer, but I believe it was in November 2013. It was a private dinner. I am not aware of any matters that my office had pending before the Supreme Court at the time. As far I recall, none of the topics you mentioned was discussed, nor was any specific matter of any sort discussed. I am not aware of any other meetings of the sort to which you refer. In my capacity as attorney general, I am often at events with judges or justices of various sorts, but no discussion of pending matters would ever occur in any social interactions we might have.

143. The lifetime emissions of any energy source should be considered in the context of necessary extraction techniques as well as transportation of the fuel, among other issues. For example, transporting crude via pipeline clearly creates fewer emissions than transporting it via other sources in terms of fossil fuel energy. Without knowing the specifics of all of these factors in a given instance, it is difficult to identify which sources may result in greater emissions.

The role of the United States in the Paris Agreement is a State Department matter. If confirmed, I will work to advance the mission of the EPA, which is to protect human health and the environment, consistent with the State Department's strategy for international engagement on climate change.

144. Do you support the amendment to the Montreal Protocol to phase down HFCs?

Should the State Department decide to advance the Kigali Amendment to the Montreal Protocol and if I am confirmed as Administrator, I will work with all involved agencies and impacted stakeholders to ensure that EPA's actions related to hydrofluorocarbons (HFCs) are coordinated accordingly.

Senator Markey:

1. There is tremendous diversity across states in this country, and occasionally states have differences of opinion on how to approach a problem. One of the roles of the federal government is to be an arbiter among states.

- What is your philosophy on how interstate pollution conflicts should be handled?
- Should a state be able to pollute a river for which another state relies on for drinking water?
- What is the EPA's role in resolving interstate pollution conflicts?
- How would you determine when EPA should be involved in interstate pollution disputes?

As I testified in the hearing, I have pursued opportunities to address interstate environmental quality matters. One of the examples I have highlighted is the work that Arkansas Attorney General Dustin McDaniel and I took to address an enforceable water quality standard between Arkansas and Oklahoma. I have also discussed how Texas should be responsible when air quality issues affect Oklahoma and my experience with that. When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that is should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA.

2. During the hearing, you repeatedly underscored the need to make regulation "regular" for regulated entities.

- How do you reconcile that goal with the mission of EPA, which is "to protect human health and the environment"?
- If confirmed as EPA Administrator will your highest priorities be to protect human health and the environment?

As I testified, I believe in the rule of law and that process matters. I do not view these as being contrary to EPA's mission to protect human health and the environment.

3. Please list any deductible or nondeductible charitable donations you made in the last three years, including, for each contribution, the name of the recipient and the amount.

I have complied with the reporting obligations from the Office of Government Ethics and the EPW Committee.

4. As attorney general, you made Freedom of Information Act (FOIA) requests, and expected a fast response. Do you commit to respond to FOIAs as quickly as possible, if you are confirmed?

If confirmed, I will commit to tasking my staff with responding to FOIA requests in a timely manner.

5. During Mr. Trump's campaign, there were reports that even volunteers were required to sign non-disclosure agreements. After his election, President-elect Trump's team demanded lists of career officials who worked on climate science issues at the Energy Department and women's and gender issues at the State Department. It is against the law to retaliate against career officials for following lawful policy directives. It is also against the law to interfere with career employees communicating with Congress. I have included a summary of these laws below.

Any suggestion that the incoming administration is targeting career officials for retaliation simply because they worked on policies that the new President disagrees with threatens to create a chilling effect on employees who are simply trying to do their jobs.

5 U.S.C. § 7211, provides that: The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied. Pursuant to 5 U.S.C. § 2302(b)(8), it is a violation of federal law to retaliate against whistleblowers. That law states: Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority ... take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of. ... (A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences- (i) a violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation... " In addition, pursuant to 18 U.S.C. § 1505, it is against federal law to interfere with a

Congressional inquiry: Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress.

- If you are confirmed, will you commit to protect the rights of all career employees of the EPA, including their right to speak with Congress?
- Will you commit to communicate employees' whistleblower rights via email to all EPA employees within a week of being sworn in?

If confirmed, I commit to protecting the rights of all EPA employees and will follow the law.

6. The President-elect appears to be planning to ignore the advice he was given by bipartisan ethics experts to divest himself from his business interests. In the United States, he has hundreds of business interests, which include everything from vineyards, golf courses, hotels and casinos. Some of these interests could be impacted by EPA regulations or enforcement actions – for example, Donald Trump's New Jersey casino flunked air pollution tests, his hotel in Chicago has had a Clean Water Act violation and his New Jersey Golf Club violated the Safe Drinking Water Act.

- Do you commit to ensure that no employee of the EPA is pressured to take - or not take - any regulatory or enforcement action or decision because that action or decision would adversely affect business interests associated with the president-elect or his family?
- Considering that the president-elect has stated he will not release his tax returns anytime soon, how will you know exactly what all of the Trump family interests are without his tax returns?

If confirmed as Administrator, I will take care that all environmental laws enacted by Congress are faithfully executed without regard to identity of the owners of any regulated business that might be affected by such execution of the laws.

7. The following series of questions relate to Title 74 Section 20i of the Oklahoma Statutes. As Attorney General of Oklahoma, you were responsible for complying with this law. For your ease of reference, Section 20i is provided below:

74 Okl. St. § 20i (2016)

§ 20i. Legal Representation of Agency or Official of Executive Branch--Contracts

A. An agency or official of the executive branch may obtain legal representation by one or more attorneys by means of one of the following:

- 1.** Employing an attorney as such if otherwise authorized by law;
- 2.** Contracting with the Office of the Attorney General; or
- 3.** If the Attorney General is unable to represent the agency, or official due to a conflict of interest, or the Office of the Attorney General is unable or lacks the personnel or expertise to provide the specific representation required by such agency or official, contracting with a private attorney or attorneys pursuant to this section.

B. When entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall select an attorney or attorneys from a list of attorneys maintained by the Attorney General. An agency may contract for legal representation with one or more attorneys who are not on the list only when there is no attorney on the list capable of providing the specific representation and only with the approval of the Attorney General. The list shall include any attorney who desires to furnish services to an agency or official of the executive branch and who has filed a schedule of fees for services with and on a form approved by the Attorney General. An agency or official may agree to deviate from the schedule of fees only with the approval of the Attorney General.

C. Before entering into a contract for legal representation by one or more private attorneys, an agency or official of the executive branch shall furnish a copy of the proposed contract to the Attorney General and, if not fully described in the contract, notify the Attorney General of the following:

- 1.** The nature and scope of the representation including, but not limited to, a description of any pending or anticipated litigation or of the transaction requiring representation;
- 2.** The reason or reasons for not obtaining the representation from an attorney employed by the agency or official, if an attorney is employed by the agency or official;
- 3.** The reason or reasons for not obtaining the representation from the Attorney General by contract;
- 4.** The anticipated cost of the representation including the following:
 - a.** the basis for or method of calculation of the fee including, when applicable, the hourly rate for each attorney, paralegal, legal assistant, or other person who will perform services under the contract, and
 - b.** the basis for and method of calculation of any expenses which will be reimbursed by the agency or official under the contract; and
- 5.** An estimate of the anticipated duration of the contract.

D. Before entering into a contract for legal representation by one or more private attorneys where the agency has reason to believe that the case, transaction or matter will equal or exceed Twenty Thousand Dollars (\$ 20,000.00) or after employment when it becomes apparent that the case, transaction or matter will equal or exceeds Twenty Thousand Dollars (\$ 20,000.00), an agency or official of the executive branch shall obtain the approval of the Attorney General when the total cost, including fees and expenses, of all contracts relating to the same case, transaction, or matter will equal or exceed Twenty Thousand Dollars (\$ 20,000.00). Any amendment, modification, or extension of a contract which, had it been a part of the original contract would have required approval by the Attorney General, shall also require approval by the Attorney General.

E. When an agency or official of the executive branch enters into a contract for professional legal services pursuant to this section, the agency shall also comply with the applicable provisions of *Section 85.41 of Title 74 of the Oklahoma Statutes*.

F. The provisions of this section shall not apply to the Oklahoma Indigent Defense System created pursuant to *Section 1355 et seq. of Title 22 of the Oklahoma Statutes*.

G. The Attorney General shall, on or before February 1 of each year, make a written report on legal representation obtained pursuant to paragraphs 2 and 3 of subsection A of this section. The report shall include a brief description of each contract, the circumstances necessitating each contract, and the amount paid or to be paid under each contract. The report shall be filed with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chair of the Appropriations and Budget Committee of the House of Representatives, and the Chair of the Appropriations Committee of the Senate.

•The Oklahoma Governor considers the Office of Attorney General a state agency, and includes the Attorney General on a comprehensive list of Oklahoma state agencies available at <https://www.ok.gov/portal/agency.php>. Do you agree that the Office of Attorney General is an agency under Oklahoma state law? If not, please explain.

Generally speaking, the Office of Attorney General is a state agency. Whether it is an "agency" for purposes of any particular statute requires an analysis of that statute.

•Subsection G of Title 74 Section 20i of the Oklahoma Statutes requires the Attorney General to report annually on any contracts for legal representation that state agencies have entered into with private attorneys over the course of the prior year. For the avoidance of doubt, no exception is provided under Section 20i for contracts for legal representation entered into by the Attorney General with private attorneys. Do you agree that Subsection G of Title 74 Section 20i required

you, as Attorney General, to report contracts for legal representation that you entered into with private attorneys over the course of the prior year? If not, please explain.

No. The purpose of Section 20i, as demonstrated by its text, is to place the Office of Attorney General in the role of approving contracts for outside counsel that other agencies wish to enter into rather than utilizing the services of the Office of Attorney General. Subsection G requires a report be made of contracts entered into "pursuant to this section," as Subsection A(3) makes clear. Because the Office of Attorney General is not required to seek permission from itself "pursuant to" that section of law, it has no applicable contracts to report pursuant to Subsection G. The Office of Attorney General has, however, routinely disclosed contracts it has entered into with outside counsel, when requests for such contracts are made.

- The last fiscal year in which payments from the Office of Attorney General to private attorneys were recorded in the report submitted pursuant to Subsection G of Title 74 Section 20i of the Oklahoma Statutes was FY 2011. No payments from the Office of Attorney General to private attorneys were recorded in the reports you filed for FY 2012, FY 2013, FY 2014, or FY 2015. As Oklahoma Attorney General, did you enter into any verbal or written contracts with private attorneys for legal representation (whether or not such contracts provided compensation to private attorneys) other than those listed in the reports you submitted for fiscal years 2011 through 2015? Please provide a brief description of each such contract you entered into, the date you entered into the contract, the circumstances necessitating the contract, and the amount—if any—paid under the contract (including details of any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).

Yes. Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act.

- Subsection B of Title 74 Section 20i of the Oklahoma Statutes requires that—when entering into a contract for legal representation by one or more private attorneys—an agency or official of the executive branch must select an attorney or attorneys from a list maintained by the Attorney General. If there are no listed attorneys capable of providing the specific representation, then the agency must obtain the approval of the Attorney General in order to enter into the contract.

- Please describe your process, as Attorney General, for evaluating a request submitted by a state agency to enter into a contract for legal representation by a private attorney not on the approved list. Please provide any documents detailing this process (which you or your staff relied on in making such evaluations) or indicate if this process was undocumented.

- Please provide any documents submitted to you by state agencies requesting approval to enter into a contract for legal representation by a private attorney not on the approved list, as well as your written responses to such requests.
- Please provide any papers documenting decisions made by you or the Office of Attorney General to enter into contracts for legal representation by private attorneys that did not originate with requests submitted to you by state agencies.
- Do you agree that Subsection B of Title 74 Section 20i required you, as Attorney General, to enter into contracts for legal representation only with private attorneys included on the list referred to in that subsection unless there were no listed attorneys capable of providing the specific representation? If not, please explain.

Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act. With regard to your question, because the Office of Attorney General maintains the referenced list, and is authorized to allow representation from attorneys not on the list, the Office of Attorney General plainly has the discretion to allow representation from attorneys not on the list.

Did you—at any time during your term as Attorney General—enter into a written or verbal contract for legal representation (whether compensated or pro bono) by one or more private attorneys not included on the list referenced in Subsection B of Title 74 Section 20i of the Oklahoma Statutes? If so, for each such contract:

- Please provide a brief description of the contract, the circumstances necessitating the contract, and the amount—if any—paid under the contract (including details on any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).
- Please indicate if you entered into the contract with a private attorney not on the approved list because there were no attorneys on the approved list capable of providing the specific representation or for another reason. Please describe the process you followed in reaching a decision to enter into a contract with a private attorney not on the approved list. Please list the attorneys on the approved list that you considered hiring (and deemed incapable of providing the specific representation) before deciding to enter into a contract with a private attorney not on the approved list. For each attorney on the approved list that you considered and rejected, please describe the deficiencies in their capabilities that led you to reject them in favor of a private attorney not on the approved list.

Such information can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act.

•As of January 18, 2017, neither David Rivkin, Jr. (nor any other attorney employed by Baker Hostetler) appeared on the “Approved Attorney List | 20i” accessible on your website at

<https://www.oag.ok.gov/litigation/1917atty.nsf/wfindatty.html?OpenView>.

○Did David Rivkin Jr. represent the State of Oklahoma in its Clean Power Plan case against EPA?

○To the best of your knowledge, did David Rivkin Jr. or Baker Hostetler receive any compensation or funds from any third party in conjunction with this or any other litigation in which it represented the State of Oklahoma on your behalf? If so, please provide the names of any such third parties.

○Did you enter into a written or verbal contract for legal representation (whether compensated or pro bono) with David Rivkin, Jr. of the Washington, D.C.-based law firm Baker Hostetler? If so, please provide:

☐a brief description of the contract;

☐the date you entered into the contract;

☐the circumstances necessitating the contract;

☐the deficiencies in the capabilities of attorneys on your approved list that led you to reject them in favor of David Rivkin Jr.—an attorney not on your approved list; and

☐the amount—if any—paid under the contract (including details on any non-monetary benefits that you may have obtained, offered, been offered, or delivered in connection with the contract).

○Please list any contributions made by David Rivkin Jr. or any employee of Baker Hostetler to you, your campaign, or any organizations or entities for which you engaged in fundraising, along with the dates of such contributions.

Yes. No. Yes. Information relating to the contract can be requested from the Office of Attorney General through a request made pursuant to Oklahoma's Open Records Act. A full list of contributors to my campaigns for the state senate and attorney general may be found at the Oklahoma Ethics Commission's websites. For state campaign committees from 2002-2014, please use this site: <https://www.ok.gov/ethics/public/candidate.php>. For 2015 to the present, the Commission uses this site: <http://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=1F26BA5E-71EA-48E4-8D50-C1013E9FE0A7>. Attached is a letter from the Oklahoma Ethics Commission regarding materials prior to 2002.

•During your term as Attorney General, did you ever enter into an arrangement whereby a private attorney or attorneys represented the State of Oklahoma on your behalf on a pro bono basis while being compensated by a third party? If so, please list the legal matters in which you entered into such arrangements, and, for each matter, the third party or parties that compensated the private attorneys, the amounts paid, and any monetary or non-monetary benefits that you may have

obtained in connection with the arrangement. During your term as Attorney General, did you have a process in place for ensuring that any private attorneys that represented the State of Oklahoma on a pro bono basis did not receive compensation from a third party for the legal services they provided to the state? If so, please describe this process.

No. Our Office would not enter into any such agreement for representation if it believed that the attorney was not truly working pro bono, and the Office would seek assurances from the attorney that they were.

8. The Online Lenders Alliance is “a trade group for online payday and short-term lenders and the companies that steer customers to them,” according to a recent Los Angeles Times article describing actions by the Consumer Financial Protection Bureau to protect consumers from misleading advertising claims made by certain members of the payday lending industry.

• Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

• Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any company making payday, title, installment, or short-term loans to consumers? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

• Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any principal, senior executive, officer, or director of a company making payday, title, installment, or short-term loans? If so, please list the amounts and dates of such donations or solicitations.

I am not aware of any such solicitations or donations.

• Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any member of the Board of Directors of the Online Lenders Alliance? For your convenience, the members

of the Board of Directors of the Online Lenders Alliance, along with their business affiliations, are listed below. For each of these individuals, please provide the amounts and dates of their donations, or, if you unsuccessfully solicited donations from them, the dates of such solicitations.

- Kim Anderson, Strategic Link Consulting
- Samantha Bentson, Cashland Online
- Kirk Chartier, Enova Financial
- Doug Clark, Axxess Financial
- Mark Curry, MacFarlane Group
- John Dalton, LeadFlash
- Steve Hotz, The Lead Group
- Clive Kinross, MoneyKey
- Glenn McKay, Selling Source, LLC.
- Bart Miller, Centrinex
- Greg Rable, FactorTrust, INC.
- Ken Rees, Elevate
- Walt Wojciechowski, MicroBilt

I am not aware of any such solicitations or donations.

•On June 16, 2015, you, as Attorney General, sent a letter to Richard Cordray, Director of the Consumer Financial Protection Bureau (hereinafter, “CFPB”), expressing concerns about certain rules the CFPB proposed to regulate payday, vehicle title, and installment lending.

○Was the text of this letter partially or substantially drafted by the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers?

○Did the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers participate in the drafting of this letter in any other way? If so, please explain.

○Did you ask the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term loans to consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any records related to your outreach.

○Did the Online Lenders Alliance or any other trade, industry, advocacy, or other group representing companies making payday, title, installment, or short-term

loans to consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any communications between you or your office and any such group regarding this letter.

As far as I am aware, no as to all.

9. The Consumer Federation of America is an association of non-profit consumer organizations devoted to advancing the consumer interest through research, advocacy, and education.

- Did you ask the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any records related to your outreach.
- Did the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers review or provide comments on a draft of this letter before it was sent? If so, please provide any communications between you or your office and any such group regarding this letter.

As far as I am aware, no as to all.

10. As you may know, Oklahoma has one of the highest usage rates for payday loans in the country and allows payday lenders to charge consumers interest rates of up to 390 percent on annual basis for a 14-day term loan. In November 2016, the CFPB reported that consumers in Oklahoma submitted debt collection complaints at a rate of 36 percent (higher than the 27 percent national average). In addition, the CFPB found that average monthly complaints from Oklahomans increased 17 percent from August through October 2015 (higher than the national rate of 13 percent).

- Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from the Consumer Federation of America or any other interest or advocacy group representing Oklahoma's consumers? If so, please list the amounts and dates of such donations or solicitations.
- Have you, your campaign, or any organizations or entities for which you engaged in fundraising ever received or solicited donations from any member of the Board of Directors of the Consumer Federation of America? If so, please provide the amounts and dates of their donations, or, if you unsuccessfully solicited donations from them, the dates of such solicitations.

I am not aware of any such solicitations or donations.

11. You have pursued at least twenty legal actions against the EPA on clean water, clean air and climate change related regulations, including multiple lawsuits that are ongoing. You have additionally criticized the EPA and its scientists on a range of scientific facts and regulations that aim to protect public health.

- Please identify EPA regulations or standards that you do support in their current form.

- In many of your legal actions and activities as Oklahoma AG, you have endorsed positions or signed letters that were drafted by oil and gas industry paid lobbyists. Please identify areas in which your views differ significantly from those of the oil and gas industry?

When negotiations among and between states breakdown EPA has a role to set environmental standards. However, that should be a last course of action instead of the first. I believe environmental statutes are designed with states as a primary implementer. Environmental statutes envision that states have the delegated enforcement and primacy to implement and enforce environmental statutes. Only when that is not happening or when negotiations between and among states breakdown should EPA determine a dispute and only after attempting to assist states negotiate a local solution. I am fond of saying that we need national standards and neighborhood solutions. I think that should shape the work of the EPA. As I also testified at the hearing, when it was appropriate to pursue legal actions or settlement negotiations specifically with the oil and natural gas industry I have done so. When considering new regulations on oil and natural gas production and practices, I have joined other co-regulators in Oklahoma advocating those changes.

12. Your Ethics Agreement states that for a one-year period, you “**will** seek authorization to participate personally and substantially in particular matters involving specific parties in which I know the State of Oklahoma is a party or represents a party.”

- Why does this language assume that you “will” seek authorizations for all such instances?

- Why is your recusal limited to a one-year period, when in some cases the “particular matters” will not be resolved within that timeframe?

- Will you commit to recusing yourself from participating in all such particular matters, without requesting or receiving a waiver, until the matter is fully resolved? If not, why not?

- These ‘particular matters’ are all litigation in which your Ethics Agreement contemplates you switching from plaintiff in your capacity as Attorney General of Oklahoma (in which you were a principal decision-maker on the part of those litigating against EPA), to defendant as EPA Administrator (in which you would be the principal decision-maker on the response to the lawsuit you filed). Why do

you not believe this creates an unresolvable conflict of interests that makes it impossible for you to properly, lawfully and ethically represent the interests of the EPA, while simultaneously upholding your professional duty to your former client, the State of Oklahoma?

My Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure that I seek authorization before participating in any matter involving specific parties in which I know the State of Oklahoma is a party or represents a party for one year after my resignation as Oklahoma Attorney General. I believe you may be misreading the language in my Ethics Agreement regarding prior authorization. If, during the relevant time period, I would like to consider participating in a particular matter involving specific parties in which I know the State of Oklahoma is a party or represents a party, I will seek advance authorization to do so. With respect to my professional obligations as a member of the bar, I am not permitted to “switch sides” as counsel in any matter in which I participated as a lawyer. The standards that would apply to me as EPA Administrator are different, however, as I will not be representing the EPA as a lawyer if I am confirmed.

13. During the hearing, you refused to unequivocally recuse yourself from litigation that you brought against the EPA, repeatedly stating that you would follow the direction of agency ethics officials' guidance in this area on a case-by-case basis. Isn't it true that if you are confirmed, the agency ethics officials that you are referring to will report to you, and this reporting relationship could be perceived to have the potential to influence the guidance they provide you with? In light of this, will you commit to the modification of your Ethics Agreement, using your own discretion and authority to do so and prior to any vote on your confirmation, in order to provide more clarity about your intentions for recusal related to each matter involving specific parties in which the State of Oklahoma is a party? If not, why not?

My Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure I comply with all applicable federal ethics rules. I will abide by the commitment I made in that letter. I am confident in the former staff of the EPA and have no reason to believe they will give me anything other than their best advice on ethics matters. Moreover, not all officials who may consider a request for authorization to participate in a matter will necessarily report to me. Before participating in matters involving specific parties in which I am concerned where there may be a question regarding my impartiality, I would expect, where they deem it appropriate, that EPA ethics officials may consult with ethics experts at OGE before making a recommendation.

14. I am attaching a January 17, 2017 letter from Citizens for Responsibility and Ethics in Washington (CREW) and a January 18, 2017 letter from The Campaign Legal Center (CLC), both sent to the EPA Designated Agency Ethics Official, for the record and for your review. The CREW letter references several factors related to your refusal to unequivocally recuse yourself from participating in any of these matters as EPA Administrator that would cause a reasonable person with knowledge of the relevant facts “to question his [your] impartiality in these matters” and “to question the integrity of the agency’s programs and operations.” The CLC letter states that “the plan described in his [your] ethics agreement is insufficient to avoid actual or apparent conflicts of interest, and would cause members of the public to question his impartiality in the conduct of his [your] duties, contrary to his [your] obligation to “ensure that every citizen can have complete confidence in the integrity of the Federal Government.””

- The CREW letter states that ethics regulations demand your recusal from participating personally and substantially as Administrator in particular matters involving specific parties in which the State of Oklahoma is a party, even if the State of Oklahoma withdraws from the matter. Do you agree to make such a recusal for each such matter, even if the State of Oklahoma withdraws from the matter? If not, why not?
- The CREW letter states that “there would be serious and apparent conflicts leading to reasonable doubts about Mr. Pruitt’s impartiality if he were to participate in these lawsuits as EPA Administrator *at any point* in their lifetime. It is therefore essential that Mr. Pruitt’s recusals last through the full course of each matter.” Do you agree to recuse yourself for the full course of each matter involving specific parties in which the State of Oklahoma is a party? If not, why not?
- The CREW letter states that any waiver request you might make from recusal from any of these matters “should be denied based on consideration of the relevant factors listed under” 5 C.F.R. 2635.502(d). Do you agree not to request a waiver from recusal from any such matter? If not, why don’t you agree with the analysis of the factors listed in the regulations as they apply to your past litigation history against the Agency that CREW described in the letter should result in a denial of the waiver request?

As discussed above, my Ethics Agreement was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, and reflects a diligent effort to ensure I comply with all applicable federal ethics rules. If confirmed, I will ask relevant federal ethics officials to fully review the issues raised in the CREW letter and, if appropriate, take them into account in determining the proper legal course of action in particular instances.

15. Some of the legal cases that you brought against the agency remain open, and there may be legal decisions that require EPA regulatory action as they are resolved; for example, a court could uphold the EPA regulation and require it to be enforced, or a court could direct such a regulation's revision. Since such regulatory actions would be a direct consequence of the litigation, any conflict of interests associated with your participating in the legal matter should extend to any EPA regulatory or enforcement action taken as a result of court action on the litigation. Do you agree to recuse yourself without waiver and for the entirety of your tenure at the EPA from all such regulatory or enforcement actions that are taken as a result of court action on a specific legal matter from which you were recused? If not, why not?

As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. It is my understanding that recusal obligations do not extend to regulatory rulemaking of general applicability, which does not create a conflict under applicable rules.

16. If you are confirmed, you will also have the ability to accomplish through *regulation* as EPA Administrator what you have been seeking to accomplish through *litigation* as Attorney General. For example, instead of waiting for a court to decide whether to grant your lawsuit's request to overturn EPA's smog standard, you could start to write a regulation to do just that on your very first day on the job. Will you commit to recuse yourself from working on the revision or elimination of any *regulation* regarding issues on which you have sued the EPA? If not, why not?

It is my understanding under federal ethics rules that regulatory rulemaking of general applicability does not create a conflict.

17. I am also attaching, for the record and for your review, the Ethics Agreement signed by Carol Browner, former EPA Administrator during the Clinton Administration. In her Ethics Agreement, she agreed to recuse herself from participating "personally and substantially in any EPA matter which involves the State of Florida as a specific party and in which I was personally and substantially involved as Secretary, Department of Environmental Regulations, State of Florida". I note that this agreement was not limited to one year in duration and not subject to waivers. I am also attaching, for the record and for your review, the Obama Administration Ethics Pledge that each nominee agreed to uphold, which states, in part, "I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts." If the response to any part of questions 2, 3 or 4 is no, please

also explain why in light of the stronger Ethics Agreements and pledges made by past EPA Administrators?

I am not familiar with the facts and circumstances surrounding Ms. Browner's Ethics Agreement. In my Ethics Agreement, which was drafted in close consultation with ethics experts at the Office of Government Ethics and EPA ethics officials, I agreed to abide by federal regulations that require my recusal from particular matters involving specific parties in which the State of Oklahoma is a party for a period of one year after my resignation as Attorney General, unless I receive a waiver. I will abide by the commitment in that letter, in addition to any other obligations imposed by the Trump Administration as well as my obligations as a member of the bar.

18. In addition to your participation in specific litigation and regulatory matters that raise conflicts of interests, there may be pending enforcement matters at EPA in which donors to you or your political action committees are the subjects. For example, records indicate that Tyson Foods has been the subject of an EPA Clean Air Act enforcement action³ and reportedly "faces an ongoing criminal investigation by the EPA for its release of toxic pollutants into waterways".⁴ Do you commit to recusing yourself from participation in any enforcement matter in which the subject is an entity that has previously made a donation to you or any of your political action committees? If not, why not?

I will consult with relevant federal ethics officials to determine whether to participate in a particular matter.

19. *Miss. Comm'n on Env'tl. Quality v. EPA*, 790 F.3d 138 (D.C. Cir. 2015) stated that "Decisionmakers violate the Due Process Clause and must be disqualified . . . when they act with an 'unalterably closed mind.'" One of your filings stated that the agency's record "does not support EPA's findings that mercury, non-mercury HAP metals, and acid gas HAPs pose public health hazards." Do you have an "unalterably closed mind" on the question of whether mercury and acid gas HAPs pose public health hazards? If not, please explain your current view on this question.

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed as Administrator, I will consider all

³ <https://www.epa.gov/enforcement/tyson-foods-inc>

⁴ http://www.meatpoultry.com/articles/news_home/Business/2016/08/Tyson_investors_c_all_for_envir.aspx?ID=%7B4E28BCD7-045D-489C-8A41-48A6DDDBE99F%7D&cck=1

matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

20. Section 301(a) of the Clean Air Act prohibits the Administrator from delegating authority over many regulatory proceedings. To the extent that you are recused from participating in such decisions, who could lawfully make them?

If I am recused from participating in a matter, the Federal Vacancies Reform Act and other federal law provide a mechanism for another EPA official to perform such functions in an acting capacity. Under current policy, the EPA Deputy Administrator would typically serve this function.

21. Each case in which you litigated on behalf of your former client requested that the court compel EPA to take a specific action; for example, one pending suit asks a court to compel EPA to maintain the ozone standard at 75 ppb instead of lowering it to 70 ppb. A court may direct EPA to take specific actions as these cases are resolved, which will require changes to EPA regulations. Moreover, as EPA Administrator, you could simply direct the Agency to amend its regulations to do the very thing your lawsuit asked a court to do in the first place. This also creates an unresolvable conflict of interests.

- Will you recuse yourself, without waiver and for the entirety of your tenure as EPA Administrator, from any agency proceedings that a) directly result from the resolution of or b) are related to the “particular matters” that your Ethics Agreement agrees you should be recused from? If not, why not, and why do you not believe that such agency proceedings would be covered by your recusal under the applicable Standards of Ethical Conduct for Employees of the Executive Branch?

As EPA Administrator I will recuse from participation in litigation in matters in which I represented the State of Oklahoma, unless I receive informed consent from the State of Oklahoma and the permission of relevant federal ethics officials. I understand that this does not extend to regulatory rulemaking of general applicability, which would not create a conflict under applicable rules.

22. Our oceans are essential for life, and much of what happens on land ultimately ends up in our oceans. There are many ways in which our actions on land can both positively and negatively affect marine life and the marine environment. Under the Marine Protection, Research and Sanctuaries Act (MPRSA), the EPA ensures that harmful substances are not dumped into the

marine environment. Additionally, reducing ocean pollution is a global goal in which the U.S. is an active participant.

- In your opinion, what role does the EPA have in protecting our oceans and the marine life within?
- How specifically will the EPA, under your administration, ensure that harmful manmade substances do not end up in our oceans?
- How will the EPA continue to ensure the U.S. is a leader in reducing ocean pollution, and assisting other countries in reducing pollution that makes it into our oceans?

If confirmed, I will carry out the authorities and responsibilities given to EPA by Congress. These include responsibilities under the Marine Protection, Research and Sanctuaries Act.

23. The greenhouse gas effect traps outgoing longwave radiation causing a radiative imbalance of Earth, ultimately leading to the warming of the globe. The fundamental physics of climate change are well settled.

- Are you aware of the theory of radiative balance of the Earth? Can you briefly describe it?
- Do you understand Planck's law and the difference between shortwave vs. longwave radiation, and how that relates to Earth's energy balance?
- Do you agree that disturbances to this equilibrium can warm or cool the Earth?
- Are you aware of the atmospheric circulation and oceanic currents that transport heat from the Equator to the poles?
- Due to the complexity of the climate system, there are lag times between changes in certain conditions, such as the amount of carbon dioxide in the atmosphere, and other observable changes, such as the temperature of the deep ocean. If an action by the United States or world today, could positively or negative benefit the future, say 50 to 100 years down the road, is that an important consideration?
- Are you aware that there is less ice on land in such places as Antarctica and Greenland than in previous years since the Industrial Revolution? What do you believe is causing this decrease in mass of ice on land?
- To where do you believe the water from ice melt on land goes, and do you believe that could cause global sea levels to rise?
- Do you disagree that additional greenhouse gases in Earth's atmosphere, such as carbon dioxide, will cause a smaller magnitude outgoing longwave radiation to escape to space? Please explain.
- Do you disagree that the burning of fossil fuels, such as oil or natural gas, cause carbon dioxide to be released into the atmosphere? Please explain.
- Do you disagree that if fossil fuels were not extracted and burned, less carbon dioxide would be released into the atmosphere? Please explain.
- Therefore, is it possible, if not probable, that humans releasing greenhouse gases into the atmosphere could cause more heat to be trapped by the atmosphere? Please explain.

- Do you understand that the concept address is the previous question is the basis of human-caused climate change? Please explain.
- If not human burning of fossil fuels, how do you explain the observed increase in carbon dioxide in atmosphere?
- What is a safe level of carbon dioxide in the atmosphere? Please provide this number in parts per million. Please explain.
- If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

If confirmed, I will work to ensure that any regulatory actions are based on the most up to date and objective scientific data, including the ever-evolving understanding of the impact increasing greenhouse gases have on our changing climate. I will also adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment consistent with the process and rule of law established by congress. I also believe the Administrator has an important role when it comes to the regulation of carbon dioxide, which I will fulfill consistent with *Massachusetts v. EPA* and the agency's Endangerment Finding on Greenhouse Gases respective of the applicable statutory framework established by Congress. I believe the most effective path towards achieving these objectives is through close partnership with the states granting them regulatory leeway as ascribed by the rule of law.

24. If states want to individually take measures to curb greenhouse gas emissions will you allow them to do so? If yes, how will you support them? If not, why does the EPA have the authority to stop a state from implementing measures to curb greenhouse gases?

Yes, states are free to pursue regulatory measures to address greenhouse gas emissions under state legal authority.

25.A recently released report by *Solar Power Rocks* gave Oklahoma a grade of "F" and found that the "solar industry has been stymied at every turn."

- The length of return for a 5-kilowatt solar array installation is 16 years in Oklahoma, compared to the just 4 years in Massachusetts. Why do you believe that is the case?
- In 2014, the Oklahoma legislature passed legislation putting a surcharge on rooftop solar. Do you support this? Why or why not?

I am not familiar with "lengths of return" or the potential differences in such lengths of return between states, and thus have no opinion as to the cause

of any such differences. I am not familiar with the legislation you reference, and have formulated no opinion with regard to the wisdom of it as a matter of Oklahoma policy.

26. Last week, in his nomination hearing, Rex Tillerson dismissed the importance of America being energy independent. If you are confirmed as EPA Administrator, you will oversee tailpipe standards for cars and SUVs and the renewable fuel standard, two important policies that support energy independence by reducing oil consumption in America. In your view, should achieving energy independence be a priority for America?

As Congress indicated in the Energy Independence and Security Act of 2007, domestic production of renewable fuel contributes to our nation's "greater energy independence and security." Our energy independence will best be achieved by an "all-of-the-above" strategy without the government picking winners and losers. Setting motor vehicle emissions standards is a complex task that requires careful balancing of several competing factors. Setting such standards also requires coordination with NHTSA, which continues to administer the CAFE program. I will consider the relevant factors carefully and will coordinate closely with NHTSA on any motor vehicle emissions standards that will be addressed during my tenure if I am confirmed as Administrator.

27. A cornerstone of science is impartiality and following the facts. This is what has allowed the United States to be a world leader in science.

- Do you commit to allowing EPA scientists to do their jobs and not interfere with their science?
- How will you ensure that scientists, such as those employed by EPA, are allowed to continue their work unimpeded by potential challenges due to their topic of research?
- Do you agree that only scientists and technical experts, not impeded by political influence, should edit scientific work? If not, why?
- In your opinion, what is the role that a public affairs office has in editing any potential publically available statement or information?
- Do you pledge that your all of your work as EPA Administrator will be guided by the best available science?
- Do you commit to maintaining EPA's Scientific Integrity Policy regardless of research area?

If confirmed, it will be a privilege to work with EPA scientists and the thousands of other public servants at EPA. I have no first-hand knowledge of the role of the public affairs office as referenced in the question and, if confirmed, I expect to learn more about the office. Indeed, I fully believe, as former EPA administrators have stated, that sound, objective science must

serve as "the backbone" of EPA actions. I have no first-hand knowledge of the specific scientific integrity policy referenced in the question and, if confirmed, I commit to thoroughly reviewing the policy and to follow applicable laws and federal guidance regarding scientific integrity, information quality, and transparency.

28. It has been reported by *Wired* that President-elect Trump plans to undo President Obama's June 2013 Climate Action Plan, and remove materials from EPA websites. While we understand revising policies from administration to administration, the reports of removing environmental data from EPA websites is troubling. Will you commit to keeping environmental records, data, and records provided as part of previous rulemakings publically available on the EPA's website?

- Will you commit to ensuring that any current publically available dataset remains available and easy to access? If not, please explain.
- Will you ensure that all data interpretation tools available on the EPA website remain publically available and easy to access? If not, please explain.

I have not been briefed on any changes to the EPA website following the transfer of power from the Obama Administration to the Trump Administration. That being said, I commit to reviewing the materials that are included on the EPA site if I am confirmed.

29. I have heard that EPA's Fiscal Year 2018 budget request may include a 17% budget cut. I am troubled by this reported planned cut to EPA budget and urge you to reconsider this drastic move. Will you maintain robust funding for scientific research at EPA, and to ensure that environmental data continues to be collected?

I have no first-hand knowledge of EPA's development of its FY 2018 budget request. If confirmed, I will work to ensure that the limited resources appropriated to EPA by Congress are managed wisely in pursuit of that important mission and in accordance with all applicable legal authorities.

30. Hydraulic fracturing (fracking) now provides more than half of the United States oil output. In 2000, fracking provided less than 2% of America oil. This has dramatically changed the energy landscape of the United States.

- Do you believe that hydraulic fracturing (or fracking) is the cause of the increased frequency and strength of earthquakes in Oklahoma? Please explain.
- As Attorney General have you taken any actions related to earthquakes caused by fracking?
- In May 2016, you testified that the decline in the coal industry was due to the price drop of natural gas and not EPA regulation. Do you stand by this statement? If not, why have your views changed?

•Do you believe that fracking can contaminate drinking water supplies? Please explain.

Scientists from the state level up to the National Research Council have found that the act of hydraulic fracturing itself poses very little risk of creating seismic events. Seismicity concerns related to the oil and natural gas industries are more commonly tied to the underground injection of wastewater which is regulated by the Safe Drinking Water Act. As I stated in my testimony, in Oklahoma the Corporation Commission has jurisdiction over this matter and I have been in contact with that agency that has taken very meaningful steps to address seismic concerns. I believe that there is not one single factor that has precipitated the decline in the coal industry alone. Finally, I agree with EPA's Dr. Thomas Burke who, following the release of EPA's final hydraulic fracturing water study, reiterated that the Agency only found a small number of confirmed cases of contamination. With well over one million wells that have been hydraulically fractured in the United States the evidence found by EPA suggests a very low likelihood of drinking water contamination from hydraulic fracturing or its associated activities.

31.This past December, the EPA released a report entitled, "Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States." The EPA found scientific evidence that fracking activities can affect drinking water supplies.

- Have you read this report?
- What steps will you take as Administrator to reduce the possibility of drinking water contamination due to hydraulic fracturing activities?
- Of those chemicals used in hydraulic fracturing activities, the EPA found that nearly 200 might pose a public health risk. Will you commit to continuing to study these identified chemicals and the potential health risks, as well as identify other potential harmful chemicals used in hydraulic fracturing activities?

I am familiar with the report and if confirmed as EPA Administrator I will faithfully execute my legal duties to administer laws as authorized by Congress including the Safe Drinking Water Act. Understanding and studying risks to local communities is something central to the role as Administrator and I will continue to study potential risk using the Agencies many tools.

32.Do you agree the Clean Air Act health benefits significantly outweigh costs? For example, a peer-reviewed study found that in 2010 alone the Clean Air Act Amendments of 1990, which reduced fine particulate pollution and ozone, avoided more than 160,000 premature deaths, 130,000 heart attacks, prevented 13 million missed workdays, and avoided 3.2 million missed school days by children.

Based on the limited information provided, it is unclear as to the specific study referenced. However, as I indicated in my testimony, I am incredibly proud of the progress the U.S. has made to provide public health protections and improve our environmental stewardship while also growing our economy. If confirmed, I commit to continue this progress and protect the American people through commonsense and lawful regulations.

33. According to the Consumer Reports National Research Center survey completed in June 2016, 84 percent of Americans feel that automakers should continue to improve fuel economy for all vehicle types. About three-quarters of survey respondents specifically indicated that the U.S. government should require vehicle manufacturers to improve the fuel economy of their vehicles over time. As you may know, when the government stopped increasing fuel economy standards for two decades in the mid-1980s, vehicle fuel economy stopped improving. Now that we are once again making progress, what will you do to make sure that vehicle fuel economy continues to improve as Americans expect?

While the EPA regulates emissions under the Clean Air Act, it is true that Congress vested authority to regulate fuel economy through the Corporate Average Fuel Economy (CAFE) standards" framework set forth originally in the Energy Policy and Conservation Act. Congress vested responsibility for the CAFE program in the Department of Transportation, not the EPA; accordingly, I take no position on Congress's policy decision on this subject, or on the Department of Transportation's administration of the CAFE program. If confirmed as EPA Administration, I would administer the Clean Air Act in accordance with the terms of the Act, including Congress's statutory policy objectives, and would do so on the basis of the factual record in any given proceeding.

34. After conducting its Midterm Evaluation of fuel economy standards for model years 2022 through 2025, the EPA determined that automakers were well-positioned to meet the standards at lower costs than previously estimated. In fact, the EPA chose to retain the current standards to provide regulatory certainty for the auto industry despite a technical record suggesting that standards could be made more stringent.

Among the technologies that the EPA considered in reaching its determination that fuel economy standards could be readily achieved were so-called "off-cycle technologies." Off-cycle technologies are innovations such as more efficient air conditioning through enhanced window glass that reduces solar load, stop-start systems, solar panels, active aerodynamics, and adaptive cruise control. By reducing the energy demands placed on the engine, these technologies serve to improve fuel economy and reduce tailpipe emissions of carbon pollution. Vehicle manufacturers may claim "off-cycle credits" for these carbon pollution-reducing technologies which may have benefits not adequately captured as part the

standard fuel economy testing procedures.

Americans in Massachusetts, Ohio, Tennessee, North Carolina, Michigan, Indiana and across the country have good-paying jobs that depend on vehicle manufacturers continuing to demand these innovative technologies.

In your hearing, you explained how important it is for the EPA to consider jobs and economic impacts as part of its analysis and decision-making. If confirmed, would you support the "off-cycle credit" mechanism included that the EPA included in its fuel economy standards—a mechanism that drives American innovation and job growth? If not, please explain your position.

If confirmed, my job as Administrator would be to administer the statutes that Congress has enacted, including the statutory objectives that Congress incorporates into those statutes. If Congress chooses to enact legislation to promote certain technologies, such as "off-cycle" vehicle technologies, then those statutory priorities would fall within the EPA Administrator's responsibility. If confirmed, I would look forward to working with Congress on any such statutory proposals that it legislates.

35. Is the carbon dioxide that comes out of car tailpipes physically or chemically different from the carbon dioxide that comes out of power plant smokestacks? If so, how?

As a matter of law, Congress elected to enact different statutory frameworks for regulating emissions from stationary sources and mobile sources: Title I of the Clean Air Act for the former, Title II for the latter. As the Supreme Court recognized in *Utility Air Regulatory Group v. EPA* (2013), these two frameworks have significant differences.

36. Would the impact on the climate system of carbon dioxide from power plants be any different from that of carbon dioxide from tailpipe emissions? If so, in what way?

As noted above, Congress elected to enact different statutory frameworks for regulating emissions from stationary sources and mobile sources: Title I of the Clean Air Act for the former, Title II for the latter. As the Supreme Court recognized in *Utility Air Regulatory Group v. EPA* (2013), these two frameworks have significant differences.

37. Do you agree that the power sector and the transportation sectors each contribute at least a quarter of U.S. carbon dioxide emissions?

According to the EPA (<https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>), in 2014 electricity generation accounted for 30% of total greenhouse gas emissions (quantified in terms of metric tons of CO2 equivalent), and transportation accounted for 26%.

38. Congress established protections for the air in national parks and wilderness areas in the Clean Air Act amendments of 1977. The quality of the air in New England parks like Cape Cod national seashore and Acadia national park suffers from pollution blown in from elsewhere. Last summer you joined other Attorneys General in comments objecting to the EPA's amendments to the Regional Haze Rule. Given your previous objection, if confirmed as EPA administrator, what will you do to fulfill the 40-year directive from Congress to protect and restore the air quality of national parks like Cape Cod and Acadia even if it requires states from outside the region to reduce their air pollution?

As I stated in my testimony before the Committee, I agree that the Clean Air Act gives EPA an important role in addressing interstate pollution issues, among many other things. All legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

39. The 1977 Clean Air Act amendments also provide a role for federal land managers in protecting the air quality of national parks and wilderness areas. If confirmed as EPA Administrator, how will you make sure that EPA honors the obligations federal land managers have under the Clean Air Act and that their expertise is incorporated into the policies necessary to achieve the goal of natural air quality?

I am confirmed, I will exercise my authority consistent with Congress's intent in enacting the Act. This includes acting transparently in a manner that takes into account the views of the federal land managers where the Act calls for their views, such as in assessing visibility impacts from new major sources in the preconstruction permitting process.

40. When Congress passed the original Renewable Fuels Standard (RFS) in 2005, "inadequate domestic supply" and "severe harm" to the economy were the only conditions under which the general waiver authority allowing the EPA to waive the RFS could be invoked. Despite this clear direction from Congress, in its 2014-2015-2016 final Renewable Volume Obligation (RVO), EPA used "available refueling infrastructure" as a condition to waive the standard even though Congress expressly rejected it. Do you believe that EPA's use of this reason for

granting a waiver in the 2014-2015-2016 RVO is consistent with Congressional intent and the law?

As I stated at my hearing, I believe the EPA Administrator should use its waiver authority judiciously and not to undermine or question the commitments made by Congress when enacting the RFS.

41. The Renewable Fuels Standard (RFS) is one of our country's most important tools to reduce carbon pollution from the transportation sector. The 2007 amendments to the RFS included increasing volumes of cellulosic and advanced biofuels. If confirmed, will you increase the blending targets for cellulosic and advanced biofuels, including biodiesel, given Congressional intent? What role can EPA play to facilitate the expansion of cellulosic and advanced biofuels, including biodiesel?

Section 211(0) of the Clean Air Act contains enumerated tables of applicable target volumes of renewable fuel, specifically cellulosic and advanced, for calendar years 2006 through 2022. As I indicated in my nomination hearing, it is not the job of the Administrator of the EPA to do anything other than administer the program according to the intent of Congress. If confirmed, I will work to administer this program in accordance with statute and Congressional intent.

42. In response to an Inspector General report, the EPA announced in August that it would update the estimates of carbon pollution reduction from renewable fuels. If confirmed as Administrator, will you commit to completing this update and using the best available commercial and scientific information, including a recent USDA report on the emissions profile of renewable fuels?

I have not had an opportunity to review the referenced report, but, if confirmed, I will review it.

43. In a response to a Renewable Fuels Standard question, you stated during the hearing that "we have less consumption today." Please provide the annual U.S. consumption of gasoline since 2005 as well as forecasts for 2017 and 2018. Is U.S. consumption of gasoline declining or increasing?

In the course of my nomination hearing, I referenced market conditions that have changed since 2005, when the initial RFS program was enacted. When the program was updated in 2007, Congress could not predict how the

market conditions would further change, from decreased consumption to more fuel-efficient vehicles, and therefore provided the Administrator with the ability to waive certain provisions contained in the Act. As I stated at my hearing, I do not believe the EPA Administrator should use this waiver authority to undermine the commitments made by Congress when enacting the RFS.

44. EPA set out to reduce mercury, arsenic, and other toxic chemicals from coal and oil-fired power plants through a rule that you sued to block. Power plants account for half of the mercury emissions in the United States and EPA's Mercury and Air Toxins Standards rule could save up to 11,000 lives and save \$90 billion on health costs each and every year across the United States.

- The World Health Organization states that mercury has a toxic effect on humans, and in particular poses a significant threat to child development. Do you agree that mercury is a toxic substance and exposure to it should be limited? Please explain.

- Most people are exposed to mercury from eating fish and shellfish. Do you agree that we should take appropriate steps that reduce the amount of mercury in fish and shellfish? Please explain.

As I stated in my testimony before the Committee, mercury is appropriately regulated as a hazardous air pollutant under Section 112 of the Clean Air Act. If I am confirmed as Administrator, I will regulate under Section 112 in a manner that is consistent with Congress's intent in enacting that provision. I will also faithfully administer other federal statutes that regulate mercury to the extent that they are under my jurisdiction, including the Mercury Export Ban Act of 2008, the Mercury-Containing and Rechargeable Battery Management Act of 1996, the Clean Water Act, the Emergency Planning and Community Right-to-Know Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

45. Donald Trump recently bemoaned "you're not allowed to use hair spray anymore because it affects the ozone." Hairspray is still available for sale, just without the chemical responsible for the ozone hole.

The ozone hole was first discovered in the mid-1980s. The world quickly came together to address the ozone hole through the Montreal Protocol. Actions were taken prior to confirmation of the hypothesis that chlorofluorocarbons (CFCs) due to human emissions, that chemical Donald Trump alluded to in his statement, to address the ozone hole. The treaties to address the ozone hole were the first universally ratified treaties in the history of the United Nations.

- Do you agree with the overwhelming scientific evidence that CFCs are the cause of the historic depletion of the ozone layer? If not, why not?

- Do you consider the “Montreal Protocol on Substances that Deplete the Ozone Layer” to be a success? If not, why not?
- Considering the success of the world coming together to solve an environmental problem in that instance, do you believe that such a framework could be used as an example to solve other global environmental problems? If not, why not?

I consider the Montreal Protocol to be a successful example of the world coming together to solve an important environmental problem and that the Montreal Protocol could serve as an example to the President as he exercises his foreign affairs powers and to the Senate as it considers ratification of any treaty that may come before it.

46.Mr. Pruitt, you have repeatedly sued EPA to overturn regulations that seek to protect Americans from the effects of soot, ozone, greenhouse gases, mercury, arsenic and other air pollutants. These toxic air pollutants are often blown east from large industrial and energy sources in the Midwest, particularly impacting air quality and public health from Maine and Massachusetts to the Smoky Mountains.

- EPA’s Clean Air Scientific Advisory Committee, which provides independent scientific advice to EPA on its air pollution standards, said that ozone causes a “decrease in lung function, increase in respiratory symptoms, and increase in airway inflammation.” Do you agree with this scientific conclusion? Please explain.

- EPA projected that its final Cross State Air Pollution Rule would avoid up to 34,000 premature deaths, 15,000 non-fatal heart attacks and 400,000 asthma attacks – every year. Do you agree with this conclusion? Please explain.

- The EPA concluded that the health effects associated with fine soot particles include premature death, more ER visits and increased frequency of chronic respiratory disease. Do you agree with this conclusion? Please explain.

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in my capacity as an advocate. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

47.Lead is not just a problem in Flint, Michigan, but all over the United States including Oklahoma. In your capacity as Attorney General of Oklahoma, what did you and your office do to prevent childhood lead exposure?

While I am concerned about children’s health, matters of the sort you reference would be handled by Oklahoma’s environmental regulators at the

Department of Environmental Quality and the Oklahoma Water Resources Board.

48. During your confirmation hearing before the Environment and Public Works Committee, in response to a question, you indicated that you did not know if there is a safe level of lead. Scientific experts at the Centers for Disease Control and Prevention (CDC) and the World Health Organization, among other leading scientific bodies have repeatedly warned of the dangers of lead, specifically to children, concluding that there is no level of lead exposure that is safe.

- Do you agree that exposure to lead is dangerous and that no level of exposure should be considered safe?
- If confirmed, will you commit to making reducing childhood lead exposure a priority?
- What specific strategies will you implement to reduce lead exposure?
- Will you advocate for more funding for the programs that reduce lead exposure risk, especially in children?

I have not myself reviewed the scientific studies correlating blood lead levels to impacts in children. However, it is my understanding that neither EPA nor CDC have identified a "safe" level of exposure, but instead have adopted levels appropriate for action under their specific statutory authorities. If confirmed I will carry out EPA's authorities to reduce exposure to lead, including exposures by children.

49. The EPA is tasked with implementing the Safe Drinking Water Act (SDWA), and ensuring that the drinking water supply for many Americans is safe. Given the Flint, Michigan drinking water crisis, many Americans that took clean water for granted are now being faced with questions about a basic necessity.

- The Water Infrastructure Improvement for the Nation (WIIN) Act of 2016, or WIIN Act, passed Congress was signed by the President, and became public law on December 12, 2016. Will you commit to, as expedient as practicable, implementing the changes to the Safe Drinking Water Act?
- The human-caused drinking water crisis in Flint, Michigan has highlighted the widespread concern of lead in drinking water pipes across the nation. Additionally, nearly 4 million Americans may be unknowingly drinking unsafe water. Are you aware of how many public water systems in the United States have issues with lead in drinking water above safe levels?
- If a public official knowingly exposes their community to dangerous levels of contaminants, such as lead, should that official be held accountable for such actions? What do you think are acceptable punishments for such an action?
- If confirmed as EPA Administrator, what will you do to ensure that communities across America have safe drinking water that is not contaminated with lead?